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7 Attorneys for Defendants  
JOHN BARGETTO and  
8 BARGETTO'S SANTA CRUZ WINERY

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 MARILYN CHURCHILL, an individual,

14 Plaintiff,

15 v.

16 JOHN BARGETTO, in his individual and  
official capacities; BARGETTO'S SANTA  
17 CRUZ WINERY, a California Corporation;  
and DOES 1 through 100, inclusive,

18 Defendants.  
19

CASE NO. C07-03007 MMC

**NOTICE OF WITHDRAWAL OF  
DEFENDANTS' MOTION TO COMPEL  
FURTHER EXPERT DISCLOSURE, OR IN  
THE ALTERNATIVE, TO EXCLUDE  
SUCH EXPERTS AND [PROPOSED]  
ORDER**

**Date: December 5, 2008  
Time: 9:30 a.m.  
Courtroom A, 15<sup>th</sup> Floor  
Magistrate Judge Joseph C. Spero**

20  
21 Defendants JOHN BARGETTO and BARGETTO'S SANTA CRUZ WINERY hereby  
22 withdraw their Motion to Compel Further Expert Disclosure, or in the Alternative, to Exclude  
23 Such Experts, currently set for hearing on December 5, 2008, at 9:30 a.m.

24 On November 10, 2008, the Court issued its Second Amended Pretrial Preparation Order  
25 which extended the parties' deadline to disclose experts. With the new deadlines, Defendants'  
26 motion is now moot. Defendants, therefore, hereby withdraw their Motion to Compel and  
27 respectfully ask the Court to take the December 5, 2008 hearing in this matter off of the Court's  
28 calendar.

**NOTICE OF WITHDRAWAL OF MOTION TO  
COMPEL AND [PROPOSED] ORDER  
CASE NO. C07-03007 MMC**

1 Dated: December 1, 2008

TINGLEY PIONTKOWSKI LLP

2  
3 By: /s/ Jonathan A. McMahon  
4 JONATHAN A. MCMAHON  
5 BRUCE C. PIONTKOWSKI  
6 Attorneys for Defendants

7 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
8 "conformed" signature (/s/) within this e-filed document.

9  
10 Dated: December 1, 2008

TINGLEY PIONTKOWSKI LLP

11  
12 By: /s/ Jonathan A. McMahon  
13 JONATHAN A. MCMAHON  
14 BRUCE C. PIONTKOWSKI  
15 Attorneys for Defendants

16 **[PROPOSED] ORDER**

17 GOOD CAUSE APPEARING, it is hereby ordered that the December 5, 2008 hearing on  
18 Defendants' Motion to Compel Further Expert Disclosure, or in the Alternative, to Exclude Such  
19 Experts is vacated and Defendants' Motion to Compel Further Expert Disclosure, or in the  
Alternative, to Exclude Such Experts is withdrawn without prejudice.

20 IT IS SO ORDERED.

21 Dated: 12/03, 2008

22 Honorable Joseph  
23 MAGISTRATE JUDGE  
24  
25  
26  
27  
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